

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21197

Application 31110 of

**Lynn Foundation c/o Scott Luff
8071 Mineral Road
Viola, CA 96088**

filed on **September 21, 2000**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:
Bailey Creek

Tributary to:
**North Fork Battle Creek thence Battle Creek
thence Sacramento River**

within the County of **Shasta**

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 429,800 feet and East 2,090,550 feet	NE¼ of NE¼	30	31N	3E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Recreation						
Fire Protection	Reservoirs SW¼ of SE¼	19	31N	3E	MD	

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of **26.3** acre-feet per annum to be collected from **May 1** to **November 30** of each year as follows: **7.3** acre-feet per annum in **Upper** Reservoir, and **19** acre-feet per annum in **Lower** Reservoir.
(000005D)
The maximum rate of diversion to offstream storage shall not exceed **0.25 cubic foot per second**.
(000005J)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2016.
(0000009)
7. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.
(0000022)
8. Rights under this permit are granted for the purpose of allowing permittee to retain in storage 26.3 acre-feet per annum of the direct diversion right granted under Judgement and Decree issued October 24, 1914, Superior Court in Shasta County, Ignatius Scharch, Plaintiff, vs. Northern California Power Company, consolidated, (a corporation), and T.B. Armstrong, Defendants, and Judgement By Default, No. 52218, issued February 24, 1976, Superior Court in Shasta County, Ellis Darry Armstrong, Plaintiff, vs. North Valley Baptist Church, etc, Defendants. The 26.3 acre-feet is inclusive with and not additive to permittee's court decreed right.
(0540023)
9. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance and repair. Such right shall be exercised only during the authorized diversion season.
(0000040)
10. To the extent that water available for use under this permit is water diverted into Loomis Mill Ditch by Pacific Gas and Electric Company (PG&E), this permit shall not be construed as giving any assurance that such supply will continue. PG&E may operate the canal as it sees fit without consideration to any rights of the permittee.
(0000025)
(9990900)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board (State Water Board) until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)

- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is

not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: FEB 28 2007

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Application 31110
Lynn Foundation

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Bailey Creek

COUNTY: Shasta

WHEREAS:

1. Application 31110 was filed with the State Water Resources Control Board (State Water Board) on September 21, 2000.
2. There were no unresolved protests to approval of the application. The protest of Pacific Gas and Electric Company (PG&E) was resolved by inclusion of a permit condition regarding operation of Loomis Mill Ditch. Also, a permit condition is required that identifies the Judgment and Decree issued October 24, 1914 and the Judgment by Default issued February 24, 1976 for this diversion system.
3. The State Water Board has determined that there is unappropriated water available to serve Application 31110. The Applicant has a Court decreed water right for direct diversion of 10 miners inches of water under a four-inch pressure from the ditch system that diverts water from Bailey Creek. Application 31110 was filed to obtain a right to store the water directly diverted pursuant to the decreed right.
4. The water will be diverted and used without injury to any lawful user of water. Application 31110 was noticed on March 30, 2001. Protests to approval of the application were received on the basis of injury to prior rights, but the protests were dismissed without inclusion of any permit conditions. Based on the court's determination that 10 miners inches of water under a four-inch pressure is available to serve the Applicant, water is available to serve this application without injury to prior rights.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. The Department of Fish and Game (DFG) protested the application, but withdrew the protest. DFG found that the diversion does not change the amount or season of water already allocated to PG&E from Bailey Creek and no conditions need be applied to the small diversion from the Loomis Mill Ditch.
6. The intended use is beneficial. Water will be used for recreation and fire protection at a church camp.

7. Environmental review began on July 27, 1999. Approval of this project will not result in construction or expansion in the facilities or water use beyond that existing on the date environmental review began. Pursuant to the provisions of the California Environmental Quality Act, the State Water Board issued a Notice of Exemption based on Categorical Exemption under Class 1 pursuant to CCR, Title 14, section 15301 and Title 22, section 60101(c)(1). The exemption notice states:
- (a) The project consists of operation, repair, maintenance or minor alteration of existing reservoirs that involves no expansion of use beyond that existing at the present time.
 - (b) This project will not cause significant adverse impacts on any sensitive environmental and will not result in significant cumulative impacts.
 - (c) There are no unresolved protests.
 - (d) DFG has determined that no conditions are required to protect instream beneficial uses.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 31110, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD

for 
Victoria A. Whitney, Chief
Division of Water Rights

Dated: **FEB 28 2007**

Attachment

